

Introduced by Senator Kehoe

February 22, 2005

An act to add Division 32.5 (commencing with Section 81750) to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 866, as amended, Kehoe. Water use measurement information.

Existing law, with certain exceptions, requires each person who diverts water after December 31, 1965, to file with the State Water Resources Control Board a statement of diversion and use. Existing law requires other water users or suppliers to report other water use information to various state agencies. Existing law requires certain water suppliers to install water meters on specified service connections and to charge for water service each customer that has a service connection for which a water meter has been installed based on the actual volume of deliveries as measured by the water meter.

This bill would require the Department of Water Resources, not later than 2 years after the date on which the department completes each update of a specified water plan, to prepare and submit to the Legislature a report with regard to various matters concerning water use measurement information. *The bill would require the department to conduct a study to determine the cost-effectiveness of more accurate farm-gate measurement and to prepare and submit to the Legislature a related farm-gate measurement report not later than January 1, 2011.* The bill would require the department, ~~in consultation with water suppliers and other state agencies; the board, and the State Department of Health Services~~ to develop and implement ~~the use of jointly~~ a coordinated water use reporting database, along with standard forms for submitting information to be

reflected in the database, to be made available through the Internet. The bill would require the ~~authority~~ *department* to convene a group of technical staff and interested stakeholders to develop the scope and content of the database. The bill, not later than January 1, 2013, would require certain water users and *water* suppliers required to report water use measurement information to the state to do so by using the standard forms developed for use in connection with the database. The bill would provide for the submission of other reports to the Legislature relating to the use of the database.

The bill, with certain exceptions and not later than January 1, 2010, would require agricultural water suppliers to report, each year, aggregated farm-gate delivery data to the department using the standard forms. The bill, with a certain exception, would condition eligibility for certain grants or loans on compliance with this reporting requirement.

The bill, with certain exceptions and not later than January 1, 2010, would require persons *or water suppliers* diverting surface water to measure and report, at least annually, those diversions to the board using the standard forms. The bill, with a certain exception, would condition eligibility for certain grants or loans to persons who divert surface water for agricultural use on compliance with this reporting requirement.

The bill would require the state agencies with responsibilities under this water measurement program to undertake their various described duties only to the extent that funds are made available for those purposes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) As growth and development continue to make California's
- 4 water resources increasingly scarce, diverse stakeholder groups
- 5 have recognized the importance of water measurement.
- 6 Appropriate measurement of water use leads to better water
- 7 supply reliability by making critical information available to
- 8 local, state, and federal water managers and planners in order to
- 9 aid them in better providing for future needs.

1 (b) The CALFED Bay-Delta Program Record of Decision
2 called for the development of a definition of appropriate
3 measurement and the implementation of appropriate
4 measurement actions.

5 (c) (1) On April 8, 2004, the California Bay-Delta Authority
6 approved a water use measurement proposal, that was developed
7 through an open multiyear process of technical review and
8 consultation by diverse stakeholders and agencies and was
9 designed to result in a balanced package of actions that together
10 can advance meaningful and beneficial change. The
11 authority-approved water use measurement proposal consisted of
12 several elements, including actions to be submitted for legislative
13 enactment prior to full implementation, as well as administrative
14 actions to be implemented under existing authority.

15 (2) Actions to be required by legislative enactment include all
16 of the following:

17 ~~(A) Requiring the measurement of urban service water~~
18 ~~deliveries by urban water suppliers, which requirement was~~
19 ~~enacted into law in 2004.~~

20 ~~(B)–~~

21 (A) Requiring the reporting of aggregate “farm-gate” delivery
22 data by agricultural water suppliers to the Department of Water
23 Resources.

24 ~~(C)–~~

25 (B) Requiring the measurement and reporting of surface water
26 diversions by diverters to the State Water Resources Control
27 Board.

28 ~~(D)–~~

29 (C) Requiring the development and implementation of a
30 coordinated water use reporting database, along with the use of
31 standard reporting forms by the Department of Water Resources,
32 State Water Resources Control Board, State Department of
33 Health Services, and California Bay-Delta Authority.

34 (3) *An action found to require legislative enactment that has*
35 *subsequently been addressed by the Legislature in 2004 includes*
36 *requiring the measurement of water delivered by urban water*
37 *suppliers by way of municipal or industrial service connections.*

38 (4) Actions to be implemented administratively, under existing
39 authority and with stakeholder involvement, include all of the
40 following:

1 (A) Measuring cropwater consumption using remote sensing
2 and more frequent assessment of net groundwater usage by the
3 Department of Water Resources.

4 (B) Conducting ongoing water measurement research and
5 adaptive management by the California Bay-Delta Authority and
6 Department of Water Resources.

7 (C) Requiring the reporting of specific water source and
8 customer delivery data by urban water suppliers to be performed
9 by the State Department of Health Services, in consultation with
10 the Department of Water Resources.

11 (d) The Department of Water Resources, State Water
12 Resources Control Board, State Department of Health Services,
13 and California Bay-Delta Authority should cooperate and
14 coordinate their efforts in collecting, managing, and utilizing
15 water use measurement information, to ensure that the
16 information is put to optimal use in water resource planning and
17 decisionmaking, to increase efficiency, and to reduce redundancy
18 of effort, agency costs, and duplicative reporting burdens on
19 persons required to report measurement information. Interagency
20 coordination is particularly necessary for the purposes of
21 developing forms, protocols, data sets, research on
22 measurement-related issues, and for the purpose of undertaking
23 adaptive management to identify future actions to improve water
24 use measurement in California.

25 SEC. 2. Division 32.5 (commencing with Section 81750) is
26 added to the Water Code, to read:

27
28 DIVISION 32.5. WATER USE MEASUREMENT
29 INFORMATION
30

31 81750. Unless the context indicates otherwise, the definitions
32 set forth in this section govern the construction of this division.

33 (a) "Agricultural water supplier" shall have the meaning set
34 forth in Section 10902.

35 (b) "Authority" means the California Bay-Delta Authority.

36 (c) "Best available technologies" means flow totaling devices
37 and, if necessary, data loggers and telemetry, or their functional
38 equivalent.

(d) “Best professional practices” means operations, maintenance, and data collection activities that ensure optimal accuracy and precision of measurement installations.

(e) “Diverting” means diverting water in the manner described in Section 5100.

(f) “Farm-gate delivery data” means information collected relevant to the amount of water delivered by an agricultural water supplier from that supplier's distribution facility to its customers.

(g) *“Lead scientist” means the lead scientist appointed pursuant to Section 79452.*

(h) “Person” shall have the meaning set forth in Section 5100.

~~(h)~~

(i) “Tidal zone” means those portions of the Sacramento-San Joaquin Delta, as described in Section 12220, that are ordinarily subject to tidal action.

~~(i)~~

(j) “Water” refers to groundwater and surface water.

81751. (a) Not later than two years after the date on which the department completes each update of the California Water Plan, the department shall prepare and submit to the Legislature a report on the progress, status, and results of each of the following:

(1) The coordinated state water use reporting database, including a general summary of the data contained in the database, and an assessment of its accuracy and thoroughness.

(2) A water use measurement research agenda, including a description of priorities for water use measurement research identified by the Independent Science Board established pursuant to Section 79470.

(3) A review evaluating current and prior water use measurement actions, including an assessment of any additional measurement actions that the department recommends for advancement through budgetary, administrative, regulatory, or legislative means.

~~The report~~ Each report shall also include a description of the progress, status, and results of each of the following, to the extent not covered in previous reports:

(1) Studies regarding the degree of correlation between water use efficiency and farm-gate measurement, including, but not

1 necessarily limited to, the information described in subdivision
2 ~~(e) of Section 81753: (c).~~

3 (2) Agricultural water use measurement and reporting needs
4 associated with return flow, water quality, and instream gauging.

5 (3) Effectiveness of the measurement and reporting actions set
6 forth in the authority-approved water use measurement proposal,
7 dated April 8, 2004, as implemented, and the extent to which the
8 implementation of those actions has increased or decreased the
9 overall reporting workload for water suppliers.

10 (4) Progress or obstacles with regard to the implementation of
11 the actions described in the authority-approved water use
12 measurement proposal.

13 *(c) (1) The department shall conduct a study to determine the*
14 *cost-effectiveness of more accurate farm-gate measurement in*
15 *California. The study shall include analyses of regional*
16 *differences in farm-gate measurement and the causal link*
17 *between farm-gate measurement accuracy and water use*
18 *efficiency.*

19 *(2) Not later than January 1, 2007, the department, in*
20 *consultation with interested stakeholders and the authority, shall*
21 *develop and publish the scope of the study and commence*
22 *collection of data required to complete the analyses described in*
23 *paragraph (1).*

24 *(3) Not later than January 1, 2008, the lead scientist, in*
25 *consultation with interested stakeholders and the department,*
26 *shall determine if the data being collected under paragraph (2) is*
27 *sufficient to establish whether a causal link exists between*
28 *farm-gate measurement accuracy and water use efficiency.*

29 *(4) Not later than January 1, 2010, the department, in*
30 *consultation with interested stakeholders and the authority, shall*
31 *prepare a draft of the farm-gate measurement report.*

32 *(5) Not later than January 1, 2011, the department shall*
33 *submit the final farm-gate measurement report to the Legislature*
34 *and, prior to submitting the final report to the Legislature, shall*
35 *provide the authority with an opportunity to review and comment*
36 *upon a draft of the report.*

37 *(6) On or after January 1, 2011, the authority may submit*
38 *written recommendations to the Legislature regarding the*
39 *potential need for more accurate farm-gate measurement in*
40 *California.*

(d) The department shall prepare each report in consultation with ~~the board and interested stakeholders, the board, and the~~ State Department of Health Services and, prior to submitting the final report to the Legislature, shall provide the authority an opportunity to review and comment upon a draft of the report.

~~(a) (1) The department, in consultation with water suppliers, the board, the State Department of Health Services, and the authority, shall develop and implement the use of a coordinated water use reporting database, along with standard forms for submitting information to be reflected in the database, to be made available through the Internet, in accordance with this division.~~

~~(2) The authority~~
81752. (a) (1) *The department, the board, and the State Department of Health Services shall jointly, and in consultation with water suppliers and the authority, develop and implement a coordinated water use reporting database, along with standard forms for submitting information to be reflected in the database, to be made available through the Internet, in accordance with this division.*

(2) *The department shall convene a group of technical staff from each of the agencies identified in this subdivision and interested stakeholders for the purpose of developing the scope and content of the database.*

(b) The database and standard forms shall be developed with the intent to facilitate the reporting, receiving, compiling, storing, managing, evaluating, and making available of measurement information, while reducing redundancy and duplication of effort, consistent with the proposed reporting requirements set forth in the authority-approved water use measurement proposal.

(c) Not later than January 1, 2007, and after review of the draft report by the authority, the department shall prepare and submit to the Legislature a progress report describing the status of the development of the database and identifying strategies for overcoming any obstacles to its completion. Not later than January 1, 2008, the department shall prepare and submit to the Legislature a final report describing the development of the database.

(d) (1) Not later than January 1, 2008, the board, the State Department of Health Services, and the department shall “beta

1 test” a version of the database. The beta test, and any resulting
2 modifications, shall be completed within one year.

3 (2) Not later than January 1, 2009, the board, the State
4 Department of Health Services, and the department shall notify
5 all identified water users or suppliers, that are required to report
6 water use measurement information to those respective state
7 agencies, with regard to the proposed schedule for using the new
8 database. The notice shall be provided at least 18 months prior to
9 commencing the use of the database.

10 (e) Not later than January 1, 2010, the board, the State
11 Department of Health Services, and the department shall
12 commence using the database for the collection of water use
13 measurement information. Each of the agencies identified in this
14 subdivision may separately determine the extent to which
15 measurement information collected by that agency prior to the
16 date of initial operation of the database will be entered into the
17 database.

18 (f) Except as otherwise provided in Section 81753 or 81754,
19 not later than January 1, 2013, any water user or *water* supplier
20 required to report water use measurement information to the state
21 shall do so by using the standard forms developed pursuant to
22 this section, and the board, State Department of Health Services,
23 and department shall discontinue other methods of collecting
24 water use measurement information.

25 (g) The department shall maintain and manage the database.

26 81753. (a) (1) Not later than January 1, 2010, agricultural
27 water suppliers shall commence reporting each year aggregated
28 farm-gate delivery data to the department using the standard
29 forms developed pursuant to Section 81752.

30 (2) For the purposes of carrying out paragraph (1), agricultural
31 water suppliers shall summarize aggregated farm-gate delivery
32 data, on a monthly or bimonthly basis, using best professional
33 practices, and shall utilize accurate measurement figures,
34 reporting devices, and methodology.

35 (b) (1) Subdivision (a) does not apply to agricultural water
36 suppliers delivering less than 2,000 acre-feet of surface water
37 annually, or serving less than 2,000 acres of agricultural land.

38 (2) On or after January 1, 2012, the department, in
39 consultation with the authority, may submit written

1 recommendations to the Legislature regarding the exemptions set
2 forth in paragraph (1).

3 (c) (1) The terms of, and eligibility for, any grants or loans to
4 agricultural water suppliers provided or administered by the
5 department, board, or authority shall be conditioned on
6 compliance with this section.

7 (2) Notwithstanding paragraph (1), the department may certify
8 that an agricultural water supplier is eligible for a grant or loan
9 even though the supplier is not complying with this section, if the
10 agricultural water supplier demonstrates to the department's
11 satisfaction that the grant or loan would assist the grantee or loan
12 recipient in complying with this section.

13 (d) It is the intent of the Legislature that the requirements of
14 this section shall complement and not ~~diminish~~ *affect* the scope
15 of authority granted to the department or the board by provisions
16 of law other than this division.

17 ~~(e) (1) Not later than January 1, 2012, the staff of the~~
18 ~~authority, in consultation with their lead scientist, shall determine~~
19 ~~if the data being collected under this section is sufficient to~~
20 ~~establish whether a causal link exists between farm-gate~~
21 ~~measurement accuracy and application efficiency.~~

22 (2) If the authority determines that the information is sufficient
23 for the purpose of paragraph (1), the authority shall comply with
24 paragraphs (3), (4), and (5).

25 ~~(3) Subject to paragraph (2), not later than January 1, 2013, the~~
26 ~~authority, in consultation with its lead scientist, shall complete a~~
27 ~~preliminary evaluation to estimate the correlation between~~
28 ~~farm-gate measurement accuracy and application efficiency, and~~
29 ~~shall prepare and submit to the Legislature a report that includes~~
30 ~~the results and conclusions of the preliminary evaluation.~~

31 ~~(4) Subject to paragraph (2), not later than January 1, 2014, the~~
32 ~~authority, in consultation with its lead scientist, shall complete~~
33 ~~the final evaluation of any correlation between farm-gate~~
34 ~~measurement accuracy and application efficiency, and shall~~
35 ~~prepare and submit to the Legislature a report that includes the~~
36 ~~results and conclusions of the final evaluation.~~

37 ~~(5) Subject to paragraph (2), not later than January 1, 2015,~~
38 ~~and based upon the final evaluation, the authority shall determine~~
39 ~~whether the farm-gate measurement practices reflected in the~~
40 ~~annual report prepared pursuant to subdivision (a) should be~~

~~1 altered. The determinations shall indicate which changes, if any,
2 should be made by legislative enactment and which changes, if
3 any, should be made by administrative action. The authority shall
4 submit these determinations, in writing, to the Legislature.~~

5 81754. (a) Not later than January 1, 2010, and
6 notwithstanding the nature of the right upon which a diversion is
7 based, a person *or water supplier* diverting surface water shall
8 measure and report those diversions to the board, on at least an
9 annual basis, using the standard forms developed pursuant to
10 Section 81752. The reports shall include a summary of monthly
11 diversion measurement data. The measurement of the diversions
12 shall be made and reported using best available technologies and
13 best professional practices.

14 (b) (1) Subdivision (a) does not apply to surface water
15 diversions with a combined diversion capacity from a natural
16 channel of less than 50 cubic feet per second or to diverters using
17 siphons in the tidal zone.

18 (2) On or after January 1, 2012, the board, in consultation with
19 the authority, may submit written recommendation to the
20 Legislature regarding the exemptions set forth in paragraph (1).

21 (c) (1) The terms of, and eligibility for, any grants or loans to
22 persons who divert surface water for agricultural use provided or
23 administered by the board, the department, or the authority shall
24 be conditioned on compliance with this section.

25 (2) Notwithstanding paragraph (1), the department may certify
26 that a person who diverts surface water is eligible for a grant or
27 loan even if the person is not complying with this section, if the
28 person demonstrates to the department's satisfaction that the
29 grant or loan would assist the grantee or loan recipient in
30 complying with this section.

31 (d) It is the intent of the Legislature that the requirements of
32 this section shall complement and not ~~diminish~~ *affect* the scope
33 of authority granted to the department or the board by provisions
34 of law other than this division.

35 81755. *Notwithstanding any other provision of this division,
36 the state agencies shall carry out the duties described in this
37 division only to the extent that funds are made available for the
38 purposes of implementing those duties.*

O